

1 Stephen M. Doniger (SBN 179314)
stephen@donigerlawfirm.com

2 Scott A. Burroughs (SBN 235718)
scott@donigerlawfirm.com

3 Howard S. Han (SBN 243406)
hhan@donigerlawfirm.com

4 DONIGER / BURROUGHS

5 603 Rose Avenue

6 Venice California 90291

7 Telephone: (310) 590-1820

8 Attorneys for Plaintiff

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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 STAR FABRICS, INC., a California
13 Corporation,

14 Plaintiff,

15 v.

16
17 YAK & YETI, INC., a California
18 Corporation; ZULILY.COM, a Washington
19 Corporation; AMAZON.COM dba
20 MyHabit.com, a Washington Corporation;
21 EARTHBOUND TRADING COMPANY, a
22 Texas Corporation; NILA ANTHONY, a
23 California business entity of form unknown
and DOES 1 through 10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

24
25 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
26 this honorable Court for relief based on the following:

1 8. Plaintiff is informed and believes and thereon alleges that Defendant
2 AMAZON.COM, doing business as MyHabit.com, (“Amazon”) is a corporation
3 organized and existing under the laws of the state of Washington with its principal
4 place of business located 410 Terry Avenue, North Seattle, Washington 98109, and
5 is doing business in and with the state of California.

6 9. Plaintiff is informed and believes and thereon alleges that Defendant NILA
7 ANTHONY (“Nila”) is a corporation organized and existing under the laws of the
8 state of California with its principal place of business located at 1723 W. 2nd St.,
9 Pomona, California 91766, and is doing business in and with the state of California.

10 10. Plaintiff is informed and believes and thereon alleges that Defendants
11 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
12 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,
13 or have engaged in one or more of the wrongful practices alleged herein. The true
14 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
15 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
16 by such fictitious names, and will seek leave to amend this Complaint to show their
17 true names and capacities when same have been ascertained.

18 11. Plaintiff is informed and believes and thereon alleges that at all times
19 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
20 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
21 at all times acting within the scope of such agency, affiliation, alter-ego relationship
22 and/or employment; and actively participated in or subsequently ratified and/or
23 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
24 circumstances, including, but not limited to, full knowledge of each violation of
25 Plaintiff’s rights and the damages to Plaintiff proximately caused thereby.

CLAIMS RELATED TO DESIGN NO. 62481

12. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 62481 (“Subject Design”) which has been registered with the United States Copyright Office.

13. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design to numerous parties in the fashion and apparel industries.

14. Plaintiff is informed and believes and thereon alleges that following its distribution of Subject Design, Zulily, Yak, Earthbound, Amazon, Nila, DOE Defendants, and each of them distributed and/or sold fabric and/or garments featuring a design which is substantially similar to Subject Design (hereinafter “Subject Product”) without Plaintiff’s authorization, including but not limited to products sold by

- a. Zulily under SKU 9743924 and bearing the label “Yak n Yeti,” indicating that it was manufactured by or for Yak.
- b. Earthbound under SKU 202-98 092013, Style Number 29907, and bearing the label “earthboundtrading.com,” indicating that it was manufactured by or for Earthbound.
- c. Amazon under Style Number 61442 and bearing the label “nilaanthony.com,” indicating that it was manufactured by or for Nila.

1 15. An image of Subject Design and an exemplar of Subject Product are set
2 forth hereinbelow:

3 **Subject Design**



Subject Product



12 **FIRST CLAIM FOR RELIEF**

13 (For Copyright Infringement - Against All Defendants, and Each)

14 16. Plaintiff repeats, realleges and incorporates herein by reference as though
15 fully set forth the allegations contained in the preceding paragraphs of this
16 Complaint.

17 17. Plaintiff is informed and believes and thereon alleges that Defendants, and
18 each of them, had access to Subject Design, including, without limitation, through
19 (a) access to Plaintiff's showroom and/or design library; (b) access to illegally
20 distributed copies of Subject Design by third-party vendors and/or DOE Defendants,
21 including without limitation international and/or overseas converters and printing
22 mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in
23 the marketplace manufactured with lawfully printed fabric bearing Subject Design.

24 18. Plaintiff is informed and believes and thereon alleges that one or more of
25 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
26 further informed and believes and thereon alleges that said Defendant(s), and each of
27 them, has an ongoing business relationship with Defendant retailers, and each of

1 them, and supplied garments to said retailers, which garments infringed Subject
2 Design in that said garments were composed of fabric which featured unauthorized
3 print designs that were identical or substantially similar to Subject Design, or were
4 an illegal modification thereof.

5 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
6 each of them, infringed Plaintiff's copyright by creating, making and/or developing
7 directly infringing and/or derivative works from Subject Design and by producing,
8 distributing and/or selling Subject Product through a nationwide network of retail
9 stores, catalogues, and through on-line websites.

10 20. Due to Defendants', and each of their, acts of infringement, Plaintiff has
11 suffered damages in an amount to be established at trial.

12 21. Due to Defendants', and each of their, acts of copyright infringement as
13 alleged herein, Defendants, and each of them, have obtained profits they would not
14 otherwise have realized but for their infringement of Subject Design. As such,
15 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
16 attributable to the infringement of Subject Design in an amount to be established at
17 trial.

18 22. Plaintiff is informed and believes and thereon alleges that Defendants, and
19 each of them, have committed copyright infringement with actual or constructive
20 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
21 and continue to be, willful, intentional and malicious.

22 **PRAYER FOR RELIEF**

23 Wherefore, Plaintiff prays for judgment as follows:

- 24 a. That Defendants—each of them—and their respective agents and
25 servants be enjoined from importing, manufacturing, distributing,
26 offering for sale, selling or otherwise trafficking in any product that
27 infringes Plaintiff's copyrights in Subject Design;

- 1 b. That Plaintiff be awarded all profits of Defendants, and each of them,
2 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
3 or, if elected before final judgment, statutory damages as available under
4 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 5 c. That Plaintiff be awarded its attorneys' fees as available under the
6 Copyright Act U.S.C. § 101 et seq.;
- 7 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 8 e. That Plaintiff be awarded the costs of this action; and
- 9 f. That Plaintiff be awarded such further legal and equitable relief as the
10 Court deems proper.

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12 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
13 38 and the 7th Amendment to the United States Constitution.

14 Dated: October 16, 2015

DONIGER/BURROUGHS

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16 By: /s/ Stephen M. Doniger
17 Stephen M. Doniger, Esq.
18 Howard S. Han, Esq.
Attorneys for Plaintiff

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